

# **EXHIBIT 1**

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FILED  
 Superior Court of California  
 County of Los Angeles

AUG 27 2015

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 By *Judi Lara*, Deputy  
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9 Attorneys for Plaintiffs

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91381  
OBPT 42  
HOLY 5  
KONDIK*

10 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

11 FOR THE COUNTY OF LOS ANGELES

12 THE 2001 BENTLEY FAMILY TRUST, and  
 13 JENNIFER BENTLEY, as trustee

Case No.:

14 BC 5 9 2 8 8 4

15 Plaintiffs,

16 vs.  
 17 COMPLAINT AND DEMAND FOR JURY  
 18 COMPANY; and DOES 1 to 50, inclusive,  
 19 TRIAL

20 Defendants.

1. BREACH OF CONTRACT
2. BREACH OF THE IMPLIED  
 COVENANT OF GOOD FAITH AND  
 FAIR DEALING
3. VIOLATION OF BUSINESS &  
 PROFESSIONS CODE 17200, ET SEQ.

CIT/CASE #: BC592884  
 LEA/DEF#:

RECEIPT #: CCH520872067  
 DATE PAID: 08/27/15 02:00 PM  
 PAYMENT: \$435.00  
 RECEIVED:  
 CHECK:  
 CASH:  
 CHANGE:  
 CARD:  
 \$435.00  
 \$0.00  
 \$0.00

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 COMPLAINT & DEMAND FOR JURY TRIAL

08/27/2015

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## I. INTRODUCTION

2           1. This case arises from the unfair and unlawful lapse of a life insurance policy issued  
3 to Eric Bentley by United of Omaha Life Insurance Company (Omaha).

4           2.     Mr. Bentley purchased the policy in February 2001. He paid premiums over the  
5     next 13 years.

6           3.       During that time, Omaha sent confusing and contradictory notifications, failed to  
7       allow Mr. Bentley to designate a third party to receive lapse notifications, and ignored California  
8       lapse protection statutes.

9           4.       Despite Mr. Bentley's determined efforts to keep coverage in force, Omaha  
10      improperly lapsed the policy in October 2014. He died two weeks later.

11 5. After his death, Omaha refused to pay policy benefits

12           6.        Mr. Bentley's widow, Jennifer Bentley, is trustee of the family's trust, which had  
13    been the sole beneficiary of Mr. Bentley's policy. She and the trust bring this lawsuit to recover  
14    benefits due on the policy, and hold Omaha accountable for improperly terminating coverage.

## 15 II. THE PARTIES

16           7.       The 2001 Bentley Family Trust was entered into in Los Angeles, California. It is  
17       the beneficiary of the insurance policy at issue in this matter.

18 8. Jennifer Bentley is the trustee of that trust. She is Eric Bentley's widow. She is a  
19 resident of Los Angeles, California.

20           9.       United of Omaha Life Insurance Company is an insurance company licensed to  
21      conduct the business of insurance in California. Its corporate headquarters are located in Omaha,  
22      Nebraska.

23           10.     The true names and capacities, whether individual, corporate, associate or  
24 otherwise, of defendants DOES 1 through 50 inclusive are unknown to plaintiffs, who therefore  
25 sue these defendants by such fictitious names. Plaintiffs allege upon information and belief that  
26 each of the DOE defendants is legally responsible in some manner for the events and happenings  
27 referred to herein and will ask leave of this court to amend this complaint to insert the true name  
28 and capacity of each DOE defendant when that information becomes known.

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**COMPLAINT & DEMAND FOR JURY TRIAL**

1           11. At all relevant times, defendants were the agents and employees of each of the  
2 remaining defendants and were at all times acting within the purpose and scope of said agency  
3 and employment, and each defendant has ratified and approved the acts of his agent.

### III. FACTUAL BACKGROUND

5           12.     In February 2001, Omaha issued a \$1 million ~~life~~ insurance policy to Eric W.  
6     Bentley. (Policy No. BU1083350) A true and correct copy of this policy is attached to this  
7     Complaint as Exhibit A.

8           13.     Mr. Bentley named the 2001 Bentley Family Trust as beneficiary of the policy. His  
9     wife, Jennifer Bentley, was appointed trustee of the trust.

14. The policy identifies itself as a "Term Insurance Annually Renewable to Age 95."

11        15. The policy renews each year. Under the Premiums and Reinstatement section, the  
12 policy defines **Renewal Privilege** as follows: This policy may be renewed for successive one-year  
13 periods until the expiration date shown on page 3.

14 16. The policy identifies its expiration date as February 28, 2060.

15        17. The policy defines the Grace Period as follows: We will allow a grace period of 31  
16 days for the payment of each premium except the first. This policy will remain in force during  
17 the grace period. If the Insured dies on the premium due date or during the grace period, the  
18 premium for the policy month in which death occurs will be deducted in determining the death  
19 benefit.

18. The policy contains a definition of Nonpayment of Premiums, which states: If any premium is not paid by the end of the grace period, this policy will terminate as of the due date. You may reinstate this policy to a premium-paying basis by meeting the requirements of the Reinstatement provision.

24 19. Over the next 13 years, Mr. Bentley paid the premiums on time and in full.

25           20. Accordingly, the policy renewed each year, and coverage remained in force  
26 without interruption.

27           21.     On October 28, 2014, Omaha terminated coverage. A copy of this notice is  
28     attached to this Complaint as Exhibit B.

1           22.    Mr. Bentley died on November 7, less than two weeks after the policy unlawfully  
2 terminated.

3           23.    At no time prior to its termination did Omaha provide Mr. Bentley with the  
4 opportunity to designate someone to receive notification of pending lapse.

5           24.    At no time prior to its termination did Omaha and Mr. Bentley, or a third-party  
6 designee, with a notification of pending lapse that identified the date coverage would terminate  
7 or that otherwise complied with California law.

8           25.    Omaha terminated coverage without notifying a third party designee about  
9 premiums owed or the pending lapse.

10          26.    At the time of his death, Mr. Bentley and Jennifer Bentley were going through a  
11 divorce. Although the terms of the divorce had not been finalized, the couple had agreed that the  
12 insurance policy would remain in place and be used to support their children. Further, the  
13 California family law court had ordered that the insurance policy remain in force.

14          27.    After Mr. Bentley's death, his widow Jennifer Bentley contacted Omaha and  
15 submitted a claim for benefits. Omaha informed her that no benefits were payable on the policy.

16          28.    As a result of the denial, Ms. Bentley and her children have suffered considerable  
17 financial and emotional harm, in an amount to be proven at the time of trial.

#### 18           **IV. FIRST CAUSE OF ACTION: BREACH OF CONTRACT**

19          29.    Plaintiffs refer to all preceding paragraphs and incorporate them as though set  
20 forth in full in this cause of action.

21          30.    Omaha breached the terms of the policy by improperly terminating Mr. Bentley's  
22 policy, and thereby denying plaintiffs of benefits under the policy.

23          31.    Plaintiffs are informed and believe and thereon allege that Omaha breached the  
24 terms and provisions of the policy by other acts or omissions of which plaintiffs are presently  
25 unaware and which will be shown according to proof at the time of trial.

26          32.    As a direct and proximate result of Omaha's conduct and breach of its  
27 contractual obligations, plaintiffs have suffered damages under the policies in an amount to be  
28 determined according to proof at the time of trial, plus interest and other foreseeable and



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LAWYERS FOR INSURANCE POLICYHOLDERS

1      incidental damages according to proof, and in amounts to be determined at the time of trial.

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3      **V. SECOND CAUSE OF ACTION: BREACH OF THE IMPLIED COVENANT**  
3      **OF GOOD FAITH AND FAIR DEALING**

4

5      33. Plaintiffs refer to all preceding paragraphs and incorporate them as if set forth in  
5      full in this cause of action.

6

7      34. In every insurance policy there exists an implied duty of good faith and fair  
8      dealing that the insurance company will not do anything to injure the right of the insured to  
9      receive the full benefit of the policy. Omaha breached its duty of good faith and fair dealing owed  
9      to plaintiffs in the following ways:

10

11      a. Failing to provide timely notifications regarding premiums owed and pending  
12      lapse of the policy at issue in this matter;

13      b. Failing to timely invite Mr. Bentley to designate a third party to receive lapse  
14      notices;

15      c. Failing to properly and lawfully notify a third party designee about the impending  
16      and eventual lapse of the policy;

17      d. Failing to abide by Insurance Code sections 10113.71 and 10113.72 at all times  
18      after their enactment;

19      e. Omaha breached its duty of good faith and fair dealing by other acts or omissions  
20      of which plaintiffs are presently unaware but which will be shown according to  
21      proof at trial.

22

23      35. As a proximate result of the aforementioned unreasonable conduct of Omaha,  
24      plaintiffs suffered and will continue to suffer damages in an amount to be proven at trial.

25

26      36. As a further proximate result of the unreasonable conduct of Omaha, plaintiffs  
27      were compelled to retain legal counsel to institute litigation to obtain the full and fair benefit of  
28      the insurance Mr. Bentley purchased. Omaha therefore is liable for those attorney fees, witness  
fees and litigation costs reasonably incurred in order to obtain the full benefit.



1       37.     Omaha's conduct described herein was intended to cause injury to plaintiffs  
2 and/or was despicable conduct carried out with a willful and conscious disregard of the rights of  
3 plaintiffs and/or its insureds. Said conduct subjected plaintiffs to cruel and unjust hardship in  
4 conscious disregard of her rights and/or was an intentional misrepresentation, deceit or  
5 concealment of material facts known to Omaha with the intention to deprive plaintiffs of  
6 property, legal rights or to otherwise cause injury. Said conduct thus constitutes malice,  
7 oppression or fraud under California Civil Code section 3294, thereby entitling plaintiffs to  
8 punitive damages in an amount appropriate to punish or set an example of Omaha.

**VI. THIRD CAUSE OF ACTION: VIOLATION OF BUSINESS AND  
PROFESSIONS CODE SECTION 17200 ET SEQ.**

(Brought by plaintiff Jennifer Bentley against defendants Omaha, and DOES 1-50)

12 38. Plaintiffs refer to all preceding paragraphs and incorporate them as if set forth in  
13 full in this cause of action.

14           39. On behalf of herself and the general public, plaintiff Jennifer Bentley brings this  
15 claim pursuant to Business and Professions Code section 17200, et seq. for unfair business  
16 practices. The conduct of Omaha as alleged in this complaint has been and continues to be  
17 unfair, unlawful and harmful to plaintiffs and the general public. Ms. Bentley seeks to enforce  
18 important rights affecting the public interest within the meaning of Code of Civil Procedure  
19 section 1021.5.

20 40. Plaintiff Jennifer Bentley is a "person" within the meaning of Business &  
21 Professions Code section 17204 and therefore has standing to bring this cause of action for  
22 injunctive relief, restitution and other appropriate equitable relief.

41. Business and Professions Code §17200, et. seq. prohibits unlawful and unfair  
business practices and precludes a person or entity from engaging in unfair competition, defined  
as business practices which are unlawful, unfair or fraudulent. Section 17203 permits the court in  
an action based on allegations of unfair competition to issue injunctive, restitutionary or other  
equitable relief.

1                   42.     Omaha's violation of Business and Professions Code section 17200 includes  
2     engaging in the following unlawful, unfair or fraudulent business acts and practices:

- 3 a. Failing to adequately notify policy owners and beneficiaries of potential lapse;
- 4 b. Failing to adequately offer third-party designation on policy correspondence;
- 5 c. Improperly lapsing coverage without notifying third party designees about
- 6 premiums owed.

7           43.     The unlawful, unfair and fraudulent practices alleged above are continuing in  
8     nature and are widespread.

9           44. Plaintiff and others similarly situated suffered injury in fact and lost money or  
10          property as a result of Omaha's unfair competition.

11       45.    Omaha's acts of unfair competition present a continuing threat to the public's  
12   livelihood, welfare and finances, and plaintiff has no adequate remedy at law. Accordingly, unless  
13   Omaha is permanently enjoined and restrained by order of the court, the company will continue  
14   to commit acts of unfair competition and will continue to cause irreparable harm and injury to  
15   the public.

16 46. Plaintiff respectfully requests an injunction be issued against Omaha to enjoin it  
17 from continuing to engage in the unlawful conduct alleged herein.

18       47. Plaintiff respectfully requests the court order any other and further equitable relief  
19       deemed necessary by the court, including restitutionary relief, as a result of the unfair, unlawful  
20       and fraudulent practices alleged herein.

21           48. Plaintiff respectfully requests an award of attorney fees upon prevailing in this  
22 request for injunctive relief.

## VII. PRAYER FOR RELIEF

24 Plaintiffs pray for relief as follows:

25 1. For economic and foreseeable consequential damages, plus prejudgment interest,  
26 against defendant Omaha for breach of contract;

1           2. For economic and consequential damages, tort damages, including damages for  
2 mental and emotional distress, attorney fees, and punitive damages, plus prejudgment interest,  
3 for breach of the implied covenant of good faith and fair dealing;  
4           3. For injunctive relief, restitution, attorney fees, and all other equitable relief  
5 deemed proper by the court against defendants Omaha and DES 1-50 for violation of Business  
6 & Profession's Code section 17200;  
7           4. For such other and further relief as the court deems just and proper.

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9           Dated: August 26, 2015

SHERNOFF BIDART  
ECHEVERRIA BENTLEY, LLP

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11           By: 

12

13           WILLIAM M. SHERNOFF  
14           SAMUEL L. BRUCHEY  
15           Attorneys for Plaintiffs

16           JURY DEMAND

17           Plaintiffs hereby demand a jury trial on all causes of action that can be heard by a jury.

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19           Dated: August 26, 2015

SHERNOFF BIDART  
ECHEVERRIA BENTLEY, LLP

20

21           By: 

22

23           WILLIAM M. SHERNOFF  
24           SAMUEL L. BRUCHEY  
25           Attorneys for Plaintiffs